

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Allison Karen, et al.,

Plaintiffs

v.

United Services Automobile Association, et al.,

Defendants

Case No. 2:24-cv-02089-CDS-DJA

**Order Granting Defendants'
Motions to Dismiss**

[ECF Nos. 17, 24]

Plaintiffs Allison and Gudrun Karen bring this action against defendants United States Automobile Association (USAA), USAA Casualty Insurance Company (USAA Casualty), Garrison Property and Casualty Insurance Company, and Auto Injury Solutions, Inc./CCC¹ (collectively, defendants) and allege the following causes of action: (1) declaratory relief, (2) breach of contract, (3) exploitation of the elderly, (4) violation of Nevada's prohibition on unfair claims practices, and (5) bad faith. Compl., ECF No. 1. USAA, USAA Casualty, and Garrison filed a partial motion to dismiss. First mot. to dismiss, ECF No. 17. That motion is fully briefed. *See* Opp'n, ECF No. 20; Reply, ECF No. 23. AIS/CCC filed a separate motion to dismiss. Second mot. to dismiss, ECF No. 24. That motion is also fully briefed. *See* Opp'n, ECF No. 27; Reply, ECF No. 32. For the following reasons, I grant USAA, USAA Casualty, and Garrison's partial motion to dismiss and I grant AIS/CCC's motion to dismiss for lack of personal jurisdiction.

¹ Auto Injury Solutions is now known as CCC Intelligent Solutions, Inc., as a result of a merger between the two companies. ECF No. 24 at 1 n.1. For purposes of this motion, CCC states it will respond on behalf of Auto Injury Solutions and that "should this matter survive dismissal, a substitute of entities will be filed." *Id.* The court will refer to this party as "AIS/CCC."

1 **I. Background²**

2 Plaintiffs allege that they were involved in two motor vehicle accidents that were both
 3 caused by the “negligence of an under-insured motorist”: the first on April 29, 2023, and the
 4 second on January 12, 2024. ECF No. 1 at ¶¶ 10, 11. At the time of the accidents, the plaintiffs
 5 were insured with USAA with uninsured motor policy limits of “\$1,000,000.00 per person
 6 \$1,000,000.00 per accident.” *Id.* at ¶ 16. Plaintiffs were also insured with USAA for a “stackable
 7 medical payment policy limit of \$100,000.00 per person per vehicle.” *Id.* at ¶ 17. The combined
 8 policy limits for the underinsured motorist policies identified for both the plaintiffs’ accidents
 9 total \$2,000,000 and the medical payment policies identified a total for both accidents of
 10 \$800,000. *Id.* at ¶ 20. Despite their insurance policies and their demand for settlement, the
 11 plaintiffs allege that the defendants “delayed making an offer to settle” and “delayed making
 12 payments to the plaintiffs to cover the incurred medical expenses.” *Id.* at ¶¶ 22, 23.

13 **II. Legal standard**

14 The Federal Rules of Civil Procedure require a plaintiff to plead “a short and plain
 15 statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2).
 16 Dismissal is appropriate under Rule 12(b)(6) when a pleader fails to state a claim upon which
 17 relief can be granted. Fed. R. Civ. P. 12(b)(6); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). A
 18 pleading must give fair notice of a legally cognizable claim and the grounds on which it rests,
 19 and although a court must take all factual allegations as true, legal conclusions couched as
 20 factual allegations are insufficient. *Twombly*, 550 U.S. at 555. Accordingly, Rule 12(b)(6) requires
 21 “more than labels and conclusions, and a formulaic recitation of the elements of a cause of action
 22 will not do.” *Id.* To survive a motion to dismiss, “a complaint must contain sufficient factual
 23 matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*,
 24 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570). “A claim has facial plausibility

25 _____
 26 ² As the complaint provides no facts section, the court does its best to parse through the filing to
 summarize the factual allegations. Citation to the complaint is to provide background and does not serve
 as a finding of facts.

1 when the plaintiff pleads factual content that allows the court to draw the reasonable inference
 2 that the defendant is liable for the misconduct alleged.” *Id.* This standard “asks for more than a
 3 sheer possibility that a defendant has acted unlawfully.” *Id.*

4 If the court grants a motion to dismiss for failure to state a claim, leave to amend should
 5 be granted unless it is clear that the deficiencies of the complaint cannot be cured by
 6 amendment. *DeSoto v. Yellow Freight Sys., Inc.*, 957 F.2d 655, 658 (9th Cir. 1992). Under Rule 15(a), a
 7 court should “freely” give leave to amend “when justice so requires,” and in the absence of a
 8 reason such as “undue delay, bad faith or dilatory motive of the part of the movant, repeated
 9 failure to cure deficiencies by amendment previously allowed, undue prejudice to the opposing
 10 party by virtue of allowance of the amendment, futility of the amendment, etc.” *Foman v. Davis*,
 11 371 U.S. 178 (1962).

12 III. Discussion

13 A. USAA, USAA Casualty, and Garrison’s partial motion to dismiss is granted.

14 USAA, USAA Casualty, and Garrison filed a motion to dismiss the following claims: (1)
 15 declaratory relief, (3) exploitation of the elderly, (4) violation of Nevada’s Unfair Claims
 16 Practices Act, and (5) bad faith. ECF No. 17 at 2. I address each claim in turn.

17 USAA, USAA Casualty, and Garrison first argue that the plaintiffs fail to properly plead
 18 a claim for declaratory relief under the Declaratory Judgment Act because the plaintiffs did not
 19 demonstrate why this relief would be proper under relevant case law. *Id.* at 4–5. The Declaratory
 20 Judgment Act states, “[i]n a case of actual controversy within its jurisdiction . . . any court of the
 21 United States . . . may declare the rights and other legal relations of any interested party seeking
 22 such declaration.” 28 U.S.C. § 2201(a). The Ninth Circuit has outlined a two-part test to
 23 determine whether the court may exercise its jurisdiction under the Declaratory Judgment Act.
 24 *Principal Life Ins. Co. v. Robinson*, 394 F.3d 665, 669 (9th Cir. 2005). First, the court must inquire
 25 whether there is an “actual case or controversy within its jurisdiction.” *Id.* Second, the court
 26 must decide whether to exercise its jurisdiction by analyzing the *Brillhart* factors: (1) avoidance

1 of needless determination of state law issues, (2) discouragement of the use of declaratory
 2 judgments to forum shop, and (3) avoidance of duplicative litigation. *Chamberlain v. Allstate Ins.*
 3 *Co.*, 931 F.2d 1361, 1367 (9th Cir. 1991) (citing *Brillhart v. Excess Ins. Co.*, 316 U.S. 491, 495 (1942)). A
 4 district court's exercise of jurisdiction over declaratory relief actions is discretionary. The Ninth
 5 Circuit has also adopted the following additional considerations:

6 [W]hether the declaratory action will settle all aspects of the controversy; whether
 7 the declaratory action will serve a useful purpose in clarifying the legal relations at
 8 issue; whether the declaratory action is being sought merely for the purposes of
 9 procedural fencing or to obtain a 'res judicata' advantage; or whether the use of a
 10 declaratory action will result in entanglement between the federal and state court
 systems. In addition, the district court might also consider the convenience of the
 parties, and the availability and relative convenience of other remedies.

11 *Gov't Emps. Ins. Co. v. Dizol*, 133 F.3d 1220, 1225 n.5 (9th Cir. 1998) (quoting *American States Ins. Co. v.*
 12 *Kearns*, 15 F.3d 142, 145 (9th Cir. 1994).

13 Plaintiffs argue that I should exercise jurisdiction to grant declaratory relief because an
 14 actual case or controversy exists and "the request for declaratory relief does not involve needless
 15 determination of state law issues nor is it blatant forum shopping. Finally, there is no other
 16 litigation presently pending regarding this matter." ECF No. 20 at 4.

17 "The determination of whether a justiciable case or controversy exists for purposes of
 18 declaratory judgment requires courts to analyze 'whether the facts alleged, under all the
 19 circumstances, show that there is a substantial controversy, between parties having adverse
 20 legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory
 21 judgment.'" *Yellowstone Ins. Exch., RRG v. Broadwater Health Ctr.*, 2025 U.S. Dist. LEXIS 22678, at *12
 22 (D. Mont. Feb. 7, 2025) (quoting *Shell Gulf of Mex. Ins. v. Ctr. for Biological Diversity, Inc.*, 771 F.3d 632,
 23 635 (9th Cir. 2014)). It is not clear from the complaint which of the defendants are to be bound
 24 by the requested adjudication of rights under the insurance contract. The complaint states that
 25 the plaintiffs were insured with USAA. ECF No. 1 at ¶¶ 16, 17. But the plaintiffs consistently
 26 refer to all of the defendants when discussing their alleged failure to receive their owed

1 payments. Plaintiffs also allege facts indicating that, despite their underinsured motorist policies
2 and their demand for settlement, the **defendants** have “delayed making an offer to settle.” ECF
3 No. 1 at ¶ 22 (emphasis added). Further, the plaintiffs argue that, despite their medical payment
4 insurance policy, the **defendants** have delayed making payments to the plaintiffs to cover the
5 incurred medical expenses, *id.* at ¶ 23 (emphasis added), and that the **defendants’** delay has put
6 the plaintiffs “financially at risk” as they have been subjected to collection notices that they do
7 not have the money to pay. *Id.* at ¶ 24. Further, the plaintiffs state that “there **may** be an offset to
8 damages under the policy,” but only cites USAA Casualty. *Id.* at ¶ 15. The lack of detail makes it
9 so the court cannot ascertain who is bound by what, if any, part of the insurance contract the
10 plaintiffs allege to have. Additionally, the declaratory relief claim alleges that the defendants
11 have delayed payments, not that they have denied them. ECF No. 1 at ¶¶ 22, 23. It is unclear from
12 the face of the complaint whether a delay of payment is, in fact, in violation of the insurance
13 contract. Therefore, I cannot find that there is a justiciable case or controversy between the
14 plaintiffs and any of the defendants. *See Nat’l Union Fire Ins. Co. of Pittsburgh v. ESI Ergonomic Sols.,*
15 *LLC*, 342 F. Supp. 2d 853, 862 (D. Ariz. 2004) (finding no case or controversy when plaintiff
16 failed to allege facts indicating who was bound by the insurance contract). Plaintiffs’ declaratory
17 relief claim is dismissed without prejudice and with leave to amend.

18 USAA, USAA Casualty, and Garrison next argue that the plaintiffs have failed to
19 plausibly allege a claim for exploitation of the elderly. ECF No. 17 at 5. Nevada law provides that
20 a person may bring an action for damages for injury or loss “suffered by older or vulnerable
21 person from abuse, neglect, or exploitation[.]” Nev. Rev. Stat. § 41.1395. The statute defines
22 exploitation as

23 any act taken by a person who has the trust and confident of an older person or a
24 vulnerable person or any use of the power of attorney or guardianship of an older
25 person or a vulnerable person to:
26

(1) Obtain control, through deception, intimidation, or undue influence, over the money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of that person's money, assets, or property; or

(2) Convert money, assets, or property of the older person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of that person's money, assets or property.

§ 41.1395(b). Plaintiffs allege that Gudrun Karen

was well beyond the age of 60 years old. Nevertheless, Defendants, knowing this fact, and in full understanding that Plaintiff was not currently represented by legal counsel, wrongfully caused Plaintiff to believe there were limitations on her ability to be recompensed for her injuries. Accordingly, the USAA Defendants utilized their position of trust and confidence to, through deception, intimidation or undue influence, exert influences over monies to which Plaintiff was lawfully entitled with the intention of permanently depriving her of the ownership, use, benefit or possession of those monies.

ECF No. 1 at ¶ 36. These allegations are merely conclusory; there are no factual allegations in the complaint allowing the court to reasonably infer any relationship of trust and confidence existed between the defendants and Gudrun Karen. *See Olvera v. Shafer*, 2015 U.S. Dist. LEXIS 159363, at *13–14 (D. Nev. Nov. 24, 2015) (dismissing exploitation of the elderly claim where plaintiffs did not allege that defendant had the “trust and confidence” or “power of attorney” over plaintiff). Plaintiffs’ claim of elderly exploitation is dismissed without prejudice and with leave to amend.

USAA, USAA Casualty, and Garrison next argue that the plaintiffs’ Nevada Unfair Claims Practices Act (Nev. Rev. Stat. § 686A.310) claim must be dismissed. ECF No. 17 at 7. They first argue that the plaintiffs failed to exhaust their administrative remedies as required by statute. ECF No. 17 at 7. They state that

the Nevada Insurance Commissioner has exclusive jurisdiction over an insurer’s alleged violations pursuant to NRS § 686A.015(1). *See Allstate v Thorpe*, 123 Nev. 565, 572 (2007) (“Under NRS 679B.120(3), the Nevada Insurance Commissioner has express authority to “[e]nforce the provisions of [the Nevada Insurance] Code,” NRS Title 57 . . .”). Thus, jurisdiction over alleged violations of the UCPA falls within the original and exclusive jurisdiction of the Nevada Insurance Commissioner. *See Herrera v. Allstate Fire & Cas. Ins. Co.*, 2015 U.S. Dist. LEXIS 55480, at *6–7 (D. Nev. Apr. 28, 2015)[.]

1 *Id.* In their opposition, the plaintiffs do not deny that they did not exhaust their administrative
 2 remedies, but instead argue that Nev. Rev. Stat. § 686A.310 does not require the plaintiffs to
 3 exhaust any administrative remedies. ECF No. 20 at 5–7. Specifically, they argue that *Allstate*
 4 *Insurance Company v. Thorpe* does not bar this suit from being brought because “that case explicitly
 5 allowed for suits against first-party insurers” and it did not mention Nev. Rev. Stat. § 686A.310.
 6 ECF No. 20 at 6. Plaintiffs also argue that the statute’s language stating that “*in addition to any*
 7 *rights or remedies available to the Commissioner, an insurer is liable to its insured for any*
 8 *damages sustained by the insured as a result of the commission of any act set forth in subsection*
 9 *1 as an unfair practice*” indicates a private right of action for the insured which does not require
 10 the exhaustion of administrative remedies. *Id.* at 6–7 (emphasis in original). In their reply, USAA,
 11 USAA Casualty, and Garrison do not dispute that the statute creates a private right of action,
 12 but state that this does not divest the commissioner of the Nevada Department of Insurance of
 13 exclusive jurisdiction to regulate trade practices in the business of insurance in Nevada, and
 14 therefore the plaintiffs are still required to exhaust administrative remedies. ECF No. 23 at 7
 15 (citing Nev. Rev. Stat. § 686A.015).

16 Although I am inclined to agree that the statute’s private right of action means that
 17 parties need not exhaust administrative remedies with the Nevada Department of Insurance,³ I
 18 do not address exhaustion because the plaintiffs’ Nevada Unfair Claims Practices Act claim is
 19 too vague for the court to engage in a plausible analysis; the complaint does not allege that the
 20 defendants violated any specific provision of the Act. *See* ECF No. 1 at 6. Because the plaintiffs
 21 fail to cite to the specific provision of the Nevada Unfair Claims Practices Act that the
 22 defendants allegedly violated, they have failed to state a claim. *See Brewer v. Leprino Foods Co.*, 2019
 23 U.S. Dist. LEXIS 41869, at *10–11 (E.D. Cal. Mar. 13, 2019) (finding plaintiff failed to state a claim
 24 where she failed to cite to a specific provision of California’s Fair Employment and Housing Act

25 ³ *See Iovino v. Am. Trust Fin. Servs. Inc.*, 2025 U.S. Dist. LEXIS 47402, at *25 (D. Nev. Mar. 13, 2025) (“Nothing
 26 in § 686A.310(2) suggests that an insured must first exhaust administrative remedies with the
 Commissioner before suing an insurer for violations of § 686A.310”).

1 and instead just cited to the Act as a whole). Therefore, their Nevada Unfair Claims Practices
2 Act cause of action is dismissed without prejudice and with leave to amend.

3 USAA, USAA Casualty, and Garrison next move to dismiss the plaintiffs' cause of action
4 for bad faith because the plaintiffs have not plausibly alleged facts to support a viable claim for
5 bad faith. ECF No. 17 at 9. I agree. "Nevada law imposes a covenant of good faith and fair dealing
6 on all insurers that, if violated, can give rise to a bad-faith tort claim." *Ariz. Civ. Constructors v.*
7 *Colony Ins. Co.*, 481 F. Supp. 3d 1141, 1151 (D. Nev. 2020) (citing *U.S. Fid. & Guar. Co. v. Peterson*, 540
8 P.2d 1070, 1071 (Nev. 1975)). To successfully plead a claim of bad faith, a plaintiff must allege (1)
9 the existence of an insurer-insured relationship, (2) that the insurer breached its duty by
10 refusing to defend or indemnify its insured for a loss covered by a policy, and (3) the insurer has
11 an "actual or implied awareness of the absence of a reasonable basis for denying the benefits of
12 the policy." *Id.* (quoting *Am. Excess Ins. Co. v. MGM Grand Hotels, Inc.*, 729 P.2d 1352, 1354–55 (Nev.
13 1986)). Plaintiffs plead no facts plausibly allowing the court to infer that USAA, USAA Casualty,
14 or Garrison had actual or implied awareness that there was no reasonable basis for denying the
15 benefits of the policy. Plaintiffs merely state that "the actions taken by [USAA, USAA Casualty,
16 and Garrison] were not actions taken in good faith, were unreasonable, and were undertaken
17 with knowledge of the lack of a reasonable basis for its behavior." ECF No. 1 at ¶ 45. These are
18 conclusory legal allegations that cannot survive a motion to dismiss. *See Adams v. Johnson*, 355 F.3d
19 1179, 1183 (9th Cir. 2004) ("[C]onclusory allegations of law. . . are insufficient to defeat a motion
20 to dismiss. . . ."). Plaintiffs' bad faith claim is dismissed without prejudice and with leave to
21 amend.

22 Lastly, USAA, USAA Casualty, and Garrison ask that the court strike the plaintiffs'
23 requests for punitive damages and attorneys' fees and costs. ECF No. 17 at 11. Turning first to the
24 request for punitive damages, USAA, USAA Casualty, and Garrison argue that the complaint
25 does not plead facts sufficient to permit such relief. *Id.* Nev. Rev. Stat. § 42.005 provides that in
26 actions arising for a breach of a duty not arising from contract, "where it is proven by clear and

convincing evidence that the defendant has been guilty of oppression, fraud or malice, express or implied, the plaintiff, in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant.” Looking at the facts in the light most favorable to the plaintiffs, at best the complaint alleges a dispute about the plaintiffs’ underinsured motorist insurance and medical payment claims. Plaintiffs’ complaint fails to allege facts demonstrating that USAA, USAA Casualty, or Garrison acted with oppression, fraud, or express or implied malice in this dispute. Therefore, the complaint does not satisfy the requirements of § 42.005 and the request is dismissed without prejudice.

Last, I deny the defendants’ request to dismiss the plaintiffs’ prayer for attorneys’ fees as premature. *Nurses v. United States*, 226 F.3d 996, 1005 (9th Cir. 2000) (reversing order denying fees as premature because “this litigation is in its early stages”).

USAA, USAA Casualty, and Garrison’s partial motion to dismiss is granted. Plaintiffs’ claim for declaratory relief (claim one), exploitation of the elderly claim (claim three), unfair claims practices act claim (claim four), and bad faith claim (claim five) are dismissed without prejudice and with leave to amend.⁴ Additionally, the plaintiffs’ request for punitive damages is dismissed without prejudice.

B. Auto Injury Solution/CCC’s motion to dismiss is granted.

AIS/CCC moves to dismiss plaintiffs’ claims against it for lack of personal jurisdiction and for failure to state a claim upon which relief can be granted. Mot., ECF No. 24.

1. The court does not have personal jurisdiction over AIS/CCC.

It is well established that the Fourteenth Amendment’s Due Process Clause limits the power of a state’s courts to exercise jurisdiction over defendants who do not consent to jurisdiction. *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 923 (2011). There are two kinds of personal jurisdiction that a state’s courts may exercise over an out-of-state defendant.

⁴ With regard to the breach of contract claim, defendants acknowledge that this is a “viable cause of action” and therefore do not argue for its dismissal. ECF No. 17 at 12.

1 *Id.* at 924. A court may assert general jurisdiction over a defendant “to hear any and all claims
 2 against it” only “when the corporation’s affiliations with the State in which the suit is brought
 3 are so constant and pervasive ‘as to render [it] essentially at home in the forum State.’” *Daimler*
 4 *AG v. Bauman*, 571 U.S. 117, 122 (2014) (citing *Goodyear Dunlop Tires*, 564 U.S. at 919). A court may
 5 assert specific jurisdiction over a defendant when a case “aris[es] out of or relate[s] to the
 6 defendant’s contacts with the forum” *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S.
 7 408, 414 n.8 (1984).

8 “In opposition to a defendant’s motion to dismiss for lack of personal jurisdiction, the
 9 plaintiff bears the burden of establishing that jurisdiction is proper.” *Boschetto v. Hansing*, 539 F.3d
 10 1011, 1015 (9th Cir. 2008) (citing *Sher v. Johnson*, 911 F.2d 1357, 1361 (9th Cir. 1990)). If the court
 11 resolves the motion without holding an evidentiary hearing, “the plaintiff need only make a
 12 prima facie showing of the jurisdictional facts.” *Id.* (quoting *Sher*, 911 F.2d at 1361).
 13 “Uncontroverted allegations in the plaintiff’s complaint must be taken as true.” *Id.* (citing *AT&T*
 14 *Co. v. Compagnie Bruxelles Lambert*, 94 F.3d 586, 588 (9th Cir. 1996)). “Conflicts between the parties
 15 over statements contained in affidavits must be resolved in the plaintiff’s favor.” *Id.* (quoting
 16 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004)). A court has personal
 17 jurisdiction over a defendant if the court has either general jurisdiction or specific jurisdiction
 18 over it; I analyze each in turn.

19 “With respect to a corporation, the place of incorporation and principal place of business
 20 are paradig[m] . . . bases for general jurisdiction.” *Daimler AG*, 571 U.S. 117 at 137 (internal
 21 quotations and citation omitted). It is undisputed that AIS/CCC is not a resident of Nevada. *See*
 22 ECF No. 1 at ¶ 5 (stating that AIS/CCC is a “foreign corporation”). AIS/CCC is incorporated in
 23 Delaware and has its principal place of business in Illinois. ECF No. 24 at 6. “General
 24 jurisdiction over a nonresident corporation ‘is appropriate only when the corporation’s contacts
 25 with the forum state are so constant and pervasive as to render it essentially at home in the
 26 state.’” *Lindblad v. Linde AG*, 2024 U.S. Dist. LEXIS 37521, at *4 (N.D. Cal. Mar. 4. 2024) (quoting

1 *Martinez v. Aero Caribbean*, 764 F.3d 1062, 1066 (9th Cir. 2006)). AIS/CCC argues that this court
 2 cannot exercise general jurisdiction over it because it does not have substantial or continuous
 3 and systematic contacts to make it “at home” in Nevada. ECF No. 24 at 6. It argues that

4 CCC is a Delaware corporation that contracts with USAA, a Texas corporation, to
 5 provide mail processing services to USAA and its subsidiaries, including Garrison,
 6 which is also a Texas corporation. CCC’s medical mail processing services for
 7 USAA are performed in Daphne, Alabama, including receiving, scanning, indexing,
 8 uploading, and processing USAA’s medical mail. CCC is not “found” or physically
 9 located in Nevada as it does not own any Nevada property, nor does it operate any
 facilities in Nevada. Contrary to Plaintiffs’ Complaint, AIS was not an insurance
 company and, as such, is not licensed or required to be licensed by the State of
 Nevada. AIS did not advertise in Nevada and has never sold any goods or services
 in Nevada.

10 *Id.* at 6–7 (citing to Senftle Decl., Def.’s Ex. A, ECF No. 24-1) (internal citations omitted). In
 11 response, the plaintiffs argue that AIS/CCC operates as a “captive entity for and on behalf of the
 12 USAA Defendants” and that “they are, for all intents and purposes, the same.” ECF No. 27 at 4.

13 To support their argument, the plaintiffs state that USAA requires claimants to submit all
 14 required paperwork to AIS/CCC. *Id.* at 4–5. They also argue that

15 [USAA, USAA-Casualty, and Garrison] repeatedly and explicitly hold out
 16 AIS/CCC as their own “Medical Mail Department” to Nevada residents and policy
 17 holders. Plaintiff’s [sic] Exhibit 1 constitutes one-hundred and thirty (130) pages
 18 authored by [USAA, USAA-Casualty, and Garrison] in the course of the parties
 19 pre-litigation correspondence wherein—despite being mailed from a USAA
 20 address or signed on behalf of one of the [Defendants]—all return correspondence
 21 is directed specifically to AIS / CCC. Any appeal of USAA’s decision on the amount
 22 or value of benefits rendered or reimbursed is directed specifically to AIS / CCC.
 23 [USAA, USAA-Casualty, and Garrison] systematically hold out AIS / CCC to
 Nevada insureds. Paperwork by the hundreds of reams flows on the [USAA,
 USAA-Casualty, and Garrison’s] behalf from Nevada to AIS / CCC’s PO Box in
 Daphne, Alabama. In the correspondence included within Plaintiff’s Exhibit 1, the
 [USAA, USAA-Casualty, and Garrison] also identify themselves with the same
 mailing address as that provided for AIS / CCC. The defendants deliberately blur
 all lines between their respective entities because they function as one in purpose.

24 *Id.* at 5 (citing pre-litigation correspondence, Pls.’ Ex 1, ECF No. 27-1) (underline in original). In
 25 reply, AIS/CCC argues that all of the documents the plaintiffs cite make clear that “all claim
 26 decisions, benefit determinations, and payments were all made by [USAA, USAA-Casualty, and

Garrison].” ECF No. 32 at 3. “Nothing in Plaintiffs’ submitted documents evidences that [AIS/CCC] even had any contact with Plaintiffs. Rather, [AIS/CCC] simply processed the mail that Plaintiffs and/or their medical providers [sic] sent to USAA’s Alabama mailbox.” *Id.*

I find that the plaintiffs have not met their burden demonstrating that AIS/CCC maintains systematic and continuous contacts with the state of Nevada so as to exercise general jurisdiction over it. First, AIS/CCC disputes the plaintiffs’ allegation that it “is actually engaged in the business of selling insurance.” ECF No. 24 at 7, 9 (citing ECF No. 24-1 at ¶ 5). As the plaintiffs do not respond to this dispute in their response to the motion to dismiss, there are not sufficient jurisdictional facts for me to find that AIS/CCC does, in fact, sell insurance. *See Alexander v. Circus Circus Enters., Inc.*, 972 F.2d 261, 262 (9th Cir. 1992) (“we may not assume the truth of allegations in a pleading which are contradicted by affidavit”). The record demonstrates that AIS/CCC provides medical bill processing services to USAA, Garrison, and USAA-Casualty. ECF No. 24-1 at ¶¶ 3,4. Additionally, AIS/CCC does not advertise, nor does it sell goods or services in Nevada. *Id.* at ¶ 9. And AIS/CCC does not own any property in Nevada, nor does it operate any facilities in Nevada. *Id.* at ¶ 8. A court within this circuit in *Garner v. USAA General Indemnity Co.*, found that it could not exercise general personal jurisdiction over Auto Injury Solutions when Auto Injury Solutions did not advertise, sell goods or services, own any property, or operate any facilities in the state in question. 2019 U.S. Dist LEXIS 122628, at *5–6 (D. Mont. July 23, 2019). As the facts in *Garner* are analogous to the ones here, I find this to be persuasive and find the record demonstrates that AIS/CCC has insufficient contacts with Nevada to support a finding of general jurisdiction.

In the absence of general jurisdiction, the plaintiffs must demonstrate that the court can exercise specific jurisdiction over AIS/CCC. “Determining whether specific jurisdiction exists over an out-of-state defendant involves two inquiries: whether a forum state’s long-arm statute permits service of process, and whether the assertion of personal jurisdiction would violate due process.” *Edwards v. Juan Martinez, Inc.*, 2020 U.S. Dist LEXIS 174114, at *8 (D. Nev. Sept. 22, 2020)

(citing *Action Embroidery Corp. v. Atl. Embroidery, Inc.*, 368 F.3d 1174, 1177, 1180 (9th Cir. 2004)).

“Because Nevada’s long-arm statute, NRS § 14.065, reaches the ‘outer limits of federal constitutional due process,’” the court need only analyze whether exercising specific jurisdiction over AIS/CCC comports with due process. *Id.* (citing *Certain-Teed Prods. Corp. v. Second Jud. Dist. Ct.*, 479 P.2d 781, 784 (Nev. 1971)).

The Ninth Circuit has established a three-prong test for analyzing claims of specific personal jurisdiction:

- (1) The non-resident defendant must purposefully direct his activities or consummate some transaction with the forum or resident thereof; or perform some act by which he purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of its laws;
- (2) the claim must be one which arises out of or relates to the defendant’s forum-related activities; and
- (3) the exercise of jurisdiction must comport with fair play and substantial justice, i.e. it must be reasonable.

Schwarzenegger, 374 F.3d at 802 (quotation omitted). “The plaintiff bears the burden of satisfying the first two prongs of the test.” *Id.* If he succeeds, then the defendant must “present a compelling case that the exercise of jurisdiction would not be reasonable.” *Id.* (quotation omitted).

Plaintiffs argue that AIS/CCC has purposefully availed itself of the privilege of conducting activities in Nevada because USAA directs all Nevada correspondence through AIS/CCC, and because AIS/CCC “shares unity in purpose with [USAA, USAA-Casualty, and Garrison] as to the receipt and evaluation of medical correspondence, and then the generation of medical opinion upon which USAA bases its claims evaluation.” ECF No. 27 at 6. In its reply, AIS/CCC argues that the “[p]laintiffs neither allege nor submit any evidence that [Auto Injury Solutions] conducted activities in Nevada or consummated a transaction in Nevada. Plaintiffs’ own document submissions . . . confirm that all adjusting decisions are made by USAA.” ECF

1 No. 32 at 5 (citing ECF No. 27-1 at 23). Additionally, it states that the plaintiffs do not allege
2 that they ever had any direct contact with AIS/CCC. *Id.* AIS/CCC describes the process the
3 plaintiffs engaged in: “Plaintiffs sent medical mail to their insurer at USAA’s Alabama mailbox
4 (Auto Injury Solutions; Attn: USAA Medical Mail Dept.). Once Plaintiffs sent the bills to USAA,
5 all of [Auto Injury Solution]’s mail processing activities for USAA (labeling, indexing, processing
6 and uploading USAA’s mail to the software) were performed in Alabama.” *Id.* (citing ECF No.
7 24-1 at ¶ 4). This, it surmises, is not sufficient to demonstrate purposeful availment. *Id.*

8 Plaintiffs do not meet their burden demonstrating that AIS/CCC purposefully availed
9 itself of the privilege of doing business in Nevada such that it would be fair to exercise specific
10 jurisdiction over it in this case. Plaintiffs’ claims arise out of their insurance contract with USAA
11 and USAA’s alleged failure to honor that contract. AIS/CCC is not a party to the contract at
12 issue. Plaintiffs’ argument that AIS/CCC purposefully availed itself of Nevada because it
13 performs medical bill processing services for USAA is insufficient to demonstrate specific
14 jurisdiction. The Ninth Circuit has explained that “a showing that a defendant purposefully
15 availed himself of the privilege of doing business in a forum state typically consists of evidence of
16 the defendant’s actions in the forum, such as executing or performing a contract there.”

17 *Schwarzenegger*, 374 F.3d at 802. In *Fulbright & Jaworski v. Eighth Judicial District Court*, the Supreme
18 Court of Nevada held that it did not have personal jurisdiction over an out-of-state attorney
19 representing a Nevada client because the out-of-state attorney’s communications with the
20 Nevada client were incidental to an attorney-client relationship, and the client’s residence was
21 “mere fortuity.” 342 P.3d 997, 1003 (Nev. 2015). At the crux of the Supreme Court of Nevada’s
22 decision was the fact that there was no evidence that the attorney reached out to the client’s
23 home forum to solicit the client’s business. *Id.* at 1004. That case, although about an attorney and
24 not a medical bill processor, is analogous to this case. Here, like the defendant in *Fulbright*, there
25 is no evidence that Auto Injury Solutions reached out to Nevada to solicit any business from
26 Nevada residents. Just as the communications between the out-of-state attorney and the Nevada

1 client were incidental to the attorney-client relationship in *Fulbright*, any communications with
2 Nevada residents by Auto Injury Solutions was incidental to its role as a medical bill processor,
3 and the fact that the plaintiffs reside in Nevada was nothing more than “mere fortuity.”
4 AIS/CCC’s actions in processing medical bills from Nevada residents does not constitute
5 purposeful avilment of Nevada’s jurisdiction and it would not be proper to exercise specific
6 jurisdiction over it on that basis. As the plaintiffs have failed to demonstrate that this court has
7 general or specific personal jurisdiction over AIS/CCC, AIS/CCC is dismissed from this lawsuit
8 for lack of personal jurisdiction.⁵ AIS/CCC’s motion to dismiss is granted without prejudice and
9 with leave to amend.

10 **IV. Conclusion**

11 IT IS HEREBY ORDERED that USAA, USAA Casualty, and Garrison’s motion to dismiss
12 [ECF No. 17] is GRANTED. Plaintiffs’ claims are dismissed without prejudice and with leave to
13 amend.

14 IT IS FURTHER ORDERED that Auto Injury Solution/CCC’s motion to dismiss [ECF
15 No. 24] is GRANTED for lack of personal jurisdiction. Plaintiffs’ claims are dismissed without
16 prejudice and with leave to amend.

17 Should plaintiffs choose to amend, the new complaint should be labelled “First Amended
18 Complaint” and must be submitted no later than August 5, 2025.

19 Dated: July 22, 2025

20
21 
22 Cristina D. Silva
23 United States District Judge
24
25

26 ⁵ Because I dismiss AIS/CCC for lack of personal jurisdiction, I do not address its argument that
plaintiffs’ claims against it should be dismissed for failure to state a claim.